

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: _____ DATE FILED: 10/15/2021
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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NICE PEOPLE AT WORK, INC.,	:	
	:	
Plaintiff,	:	1:21-cv-00019-GHW
	:	
-v -	:	<u>ORDER</u>
	:	
MATT STERNBERG,	:	
	:	
Defendant.	:	
	:	
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GREGORY H. WOODS, United States District Judge:		

A hearing is scheduled in this case for October 21, 2021. Both parties have requested that the hearing be conducted remotely via videoconference. Guided by Rule 43(a) of the Federal Rules of Civil Procedure, the current COVID-19 pandemic constitutes compelling circumstances and provides good cause to allow this hearing to be conducted remotely via videoconference.

Accordingly, after due deliberation, the Court adopts the following virtual procedures which provide appropriate safeguards in relation to the hearing. Any party objecting to these procedures or who wishes to suggest alternate procedures shall do so by a letter submitted on ECF no later than October 15, 2021.

IT IS HEREBY ORDERED THAT:

1. **Videoconferencing**. The hearing shall take place virtually via videoconference as set forth herein. The proceeding will take place on the Microsoft Teams videoconference platform.

2. **Access**. No later than October 15, 2021, the parties shall provide to opposing counsel and to the Court via email a list of all (a) attorneys participating at the hearing, along with their phone numbers and email addresses; (b) witnesses who will participate in the hearing. The public is invited to attend the hearing on a non-speaking basis by utilizing a dial-in number that will be provided by separate order to be entered today.

3. **Submission of Exhibits.** The parties shall prepare two binders for each witness. The first binder (“Binder One”) shall be prepared by the party offering a witness. It shall contain the witness’s declaration and all documents that the party offering that witness intends for the witness to view at the hearing. The second binder (“Binder Two”) shall be prepared by the party opposing a witness. Binder Two shall contain all documents that the opposing party intends for the witness to view during cross-examination.

By no later than October 20, 2021 at 9:00 a.m., Binder Twos shall be provided to every witness as well as to opposing counsel. They shall be sealed and they shall, on the exterior of the binders, clearly instruct the witnesses and opposing counsel not to open the binders until directed to do so. Witnesses and opposing counsel shall not review Binder Twos until the cross-examinations begin. Binder Ones and Binders Two shall be provided to Chambers by email no later than October 20, 2021 at 5:00 p.m.

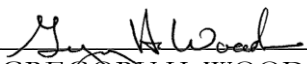
4. **Remote Witness Testimony.** Rule 43(a) of the Federal Rules of Civil Procedure provides that, for “good cause in compelling circumstances,” a witness may be permitted to testify by contemporaneous transmission from a location other than the courtroom. Having found that good cause in compelling circumstances exist here due to the COVID-19 pandemic, any witness called to testify at the hearing shall testify by contemporaneous transmission from a different location than the Courtroom (“Remote Witness”). All Remote Witnesses shall be sworn in over remote means, and such testimony will have the same effect and be binding upon the Remote Witness in the same manner as if such Remote Witness was sworn in by the Court deputy in person in open court at the courthouse. The party offering the Remote Witness shall be responsible for ensuring that the remote technology and all exhibits from all parties are supplied to the Remote Witness in hard copy prior to the hearing. During the testimony, no person other than counsel may be present in the room from which any Remote Witness who is a fact witness will testify during that witness’s

testimony. While the Remote Witness is testifying, he or she may not have in the room from which the Remote Witness is testifying any documents except Binder One and Binder Two. Remote Witnesses other than expert witnesses proffered by each side shall utilize the provided link only during the time they are testifying. Upon the conclusion of his or her testimony, the witness shall disconnect from the link.

5. **Courtroom Formalities.** Although being conducted using videoconferencing solutions, the hearing constitutes a court proceeding, and any recording other than the official court version is prohibited. No party may record images or sounds from any location. The formalities of a courtroom must be observed. When called to testify, a Remote Witness must situate himself or herself in such a manner as to be able to view the video screen and be seen by the Court.

SO ORDERED.

Dated: October 15, 2021  
New York, New York

  
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GREGORY H. WOODS  
United States District Judge